

PUBLIC ART AND CULTURAL DEVELOPMENT

No. 0084.100.E.R

1 PURPOSE

This policy establishes City of Darwin's position, defines terms and provides implementation guidelines for public art and cultural development within the Darwin municipality.

2 SCOPE

This policy refers to Council initiatives and activities occurring across the Darwin Municipality. It supplies Elected Members, Council staff, and the Darwin public with City of Darwin's position on arts and cultural development, with particular focus on:

- public art
- best practice for engagement of artists with a specific inclusion of engaging First Nations artists, and
- Council's legal responsibilities, including the handling of intellectual and artistic property.

Management, officers and contractors of Council all have joint responsibilities in complying with the terms of this policy.

3 POLICY STATEMENT

City of Darwin's Strategic Plan *Darwin 2030 – City for People. City of Colour* enshrines Council's commitment to public arts and cultural development within its fifth strategic direction of 'Creating a vibrant and creative city'. Public art and cultural development forms a central pillar in Council's achievement of this strategic direction.

Implementation of public arts and cultural development is outlined in the *City of Darwin Arts Plan 2015 – 2020*. Council will play the role of provider, funder, regulator, partner, facilitator, and advocate as required, to action:

- Commissioning of temporary and long-term public artworks
- Access to facilities, platforms and programs for the development, creation, and presentation of new works
- Facilitation of public and accessible creative spaces
- Community arts programming, including the engagement of Darwin visitors
- Professional development of Darwin artists and the local art sector
- Sponsorship of Darwin Entertainment Centre through Council's Operations Subsidy,

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- Major arts festivals and events through Council's Sponsorships Program
- Partnerships which build Darwin's creative economy
- Fostering Darwin's cultural legacy through community education, engagement, and participation in arts and cultural development
- Recognition of the Larrakia people as the traditional owners of the Darwin municipality, by showcasing Larrakia arts, culture, and products.

Implementation of arts and cultural development by City of Darwin does not include the following:

- Landscaping and earthworks when not executed by an artist or commissioned as a public artwork
- Advertising, branding, corporate signage, marketing and affiliate forms of corporate promotional media
- General community development activities that do not include cultural or artistic components
- Activities which compromise artist moral rights, artist copyright and/or ICIP, and
- Upgrades to residential and other forms of private property, artistic or otherwise.

3.1 LARRAKIA RECOGNITION

City of Darwin recognises the importance of encouraging artistic works and cultural development programming which reflect Darwin's diverse cultural identity, particularly its First Nations identity in the Larrakia people. Council recognises the Larrakia people, their perspectives and concerns in the evaluation, planning, design and development of public art, public programming and public spaces more generally.

3.2 ENGAGEMENT OF ARTISTS

City of Darwin will ensure that, where practicable, local artists will be engaged at the inception of all public projects to ensure art is accommodated, budgeted and appropriately integrated from the concept design phase onward. Engaging local artists within the design phase establishes strong working relationships and mutual respect between project stakeholders, ensures quality implementation, and delivers best practice outcomes for public art. Council endeavors to follow national industry 'percentage for arts' guidelines by setting aside a public art budget of 1.5 - 2% of the project total for new works totaling \$1 million or more.

3.3 FREEDOM OF ARTISTIC EXPRESSION

Freedom of artistic expression will be maintained in all Council projects where the creative product in question does not cause harm, does not cause offence to a reasonable person, and does not conflict with City of Darwin's culture and values (CARES values). Public feedback regarding artworks commissioned or exhibited by Council is to be lodged through the process outlined in City of Darwin's Customer Feedback Policy. Artworks will not be altered, censored or destroyed due to individual complaints received citing difference of aesthetic taste, creative preference, location or position of works, or coherence with individual belief systems.

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3.4 ARTIST MORAL RIGHTS

City of Darwin recognises the right of artists engaged by Council to hold moral rights over their work. Moral rights include the right to attribution of authorship, the right to not have the authorship of a work falsely attributed, and the right to integrity of authorship (against derogatory treatment of an artwork). Moral rights are held by an artist over their artwork until the artist dies. City of Darwin will ensure artists engaged by Council will be attributed for their works in wording endorsed by the artist and formalised within the schedule attached to their copyright contract. City of Darwin will not add, crop, alter or destroy the work without obtaining the artist's prior written consent.

3.5 ARTIST COPYRIGHT

City of Darwin recognises artist rights in relation to copyright ownership over their artwork and intellectual property. Artists retain full rights of ownership to works commissioned by Council. Where relevant, reimbursement for copyright usage will be negotiated on a case-by-case basis, determined by the nature of the artwork in question, the public profile of its usage and the seniority of the artist. Copyright usage and reimbursement is negotiated separately and additionally to negotiations for the commissioning, usage, and payment for works acquired.

3.6 INDIGENOUS CULTURAL AND INTELLECTUAL PROPERTY (ICIP)

In addition to artist copyright, City of Darwin recognises the specificity of Indigenous Cultural and Intellectual Property (ICIP) rights. ICIP acknowledges that imagery and symbols contained in some works of art by First Nations artists carry meaning for a wider cultural group and therefore ownership of concepts becomes shared between the artist and that group. Council is committed to upholding ICIP by not allowing anything to be done that may denigrate or damage ICIP in the works it uses or commissions. If requested by the artist, Council will use best efforts to ensure that the contribution of a First Nations community is acknowledged by including a notice of custodial interest within the schedule attached to the artist's copyright contract.

3.7 COMMISSIONED PUBLIC ART

3.7.1 Existing Public Art

Council commissions public art through its THRIVE Public Art Program. This program forms Council's ongoing commitment to funding public art with a clear and coherent overarching framework. In this space, Council plays the role of provider, funder, regulator partner, facilitator, and advocate, teaming local artists with experienced public art consultants through an expression of interest process. THRIVE delivers contemporary, vibrant, and quality works of public art which respond to and activate selected locations for the wider benefit of Darwin residents and visitors. THRIVE is funded through City of Darwin's dedicated public art budget.

3.7.2 Proposed Public Art

Suggestions for public art commissions on Council managed land by Elected Members, Council staff, and the public are assessed on a case-by-case basis, within the capacities and commitments of the public art budget.

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Council does not commission public art (including murals or street art) for private (i.e. non-Council owned) properties unless wide community benefit and alignment to both arts and cultural development and Council-wide strategic documents can be demonstrated.

3.8 ARTWORK DONATIONS AND BEQUESTS

City of Darwin may be offered donations and gifts of existing artworks, sculptures, memorials and other objects or be offered funds or sponsorship to have new works of art produced. Given variations in quality and relevance, coupled with ongoing responsibility and maintenance requirements, Council does not encourage and will not automatically accept a gift or donation of public art. Council reserves the right to decline the offer of any work which does not meet safety, aesthetic, structural or durability requirements.

3.9 LEGAL STREET ART SPACES

Council distinguishes between legal street art, which is a legitimate art practice undertaken with the sanction of the property owner, and illegal graffiti which is the vandalism of property. Council aims to facilitate, maintain and promote legal street art spaces on designated Council-owned infrastructure for the benefit of local and visiting artists and the Darwin community.

Legal street art spaces managed by Council include:

- Skate Park, Jingili Water Gardens

3.10 REMOVAL, RECLOATION AND DECOMMISSIONING

Artworks (particularly public artworks) have a finite lifespan which Council assesses on an individual basis. This assessment determines the 'useful life' of an artwork and is stipulated in Council's asset registry. Council endeavors to fulfil all requirements for upkeep of its public art assets but reserves the right to decommission a work when:

- The work is no longer relevant to its site or purpose
- The work poses a risk to public safety
- The work poses a risk to the environment, and/or
- There is deterioration or damage to the work beyond reasonable repair.

Artist moral rights will be adhered to by all Council staff when processing the removal, relocation or decommissioning of an artwork under its ownership.

4 DEFINITIONS

Arts and Cultural Development: Visual art, music, dance, writing, craft, theatre, media art, interdisciplinary practice, digital art and design, public art, cultural events and festivals, exhibitions, community cultural development activities, and preservation of knowledge, stories, heritage and collections.

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Community Art: Community art is artistic activity that is based in a community setting, characterised by interaction or dialogue with the community and often involving a professional artist collaborating with people who may not otherwise engage in the arts.

Community Development: Community development is a process where community members are supported by agencies to identify and take collective action on issues which are important to them. Community development empowers community members and creates stronger and more connected communities.

First Nations: First Nations refer to culturally distinct ethnic groups who are indigenous to a particular place. There are over 500 First Nations clan groups or 'nations' within Australia, which is the land mass of First Nations people referred to in this Policy.

Indigenous Cultural Intellectual Property (ICIP): ICIP refers to all the rights that Indigenous people have, and want to have, to protect their traditional arts and culture. Sometimes the words "Cultural Heritage" are used to mean the same thing.

Larrakia: The recognised traditional owners of the Darwin and Palmerston area.

Public Art: A public artwork is an artwork in any medium, planned and executed outside a gallery context and intended specifically for exhibition within public space. Public art can include permanent works, temporary works, stand-alone works, site-specific installation, integrated works into another public structure, works applied to a separate surface or structure (this includes murals, street art, vinyl transfers), memorials which include an artistic component, performance-based works, sound-based works, digital works, kinetic works (works that move) and works which experiment with scale (very large or very small).

Street Art: Street art is a legitimate and distinct art form from graffiti. It is characterised by its obtaining of consent from property owners for its purposes.

5 LEGISLATIVE REFERENCES

Copyright Act 1968

Local Government Act 2019 (NT)

Darwin City Council By-Laws 1994

6 PROCEDURES / RELATED DOCUMENTS

City of Darwin 0008.100.E.R Community Inclusion Policy 008

City of Darwin Public Art Pilot Plan 2016

City of Darwin Arts Plan 2015 – 2020

City of Darwin Public Art Guidelines 2015

7 RESPONSIBILITY / APPLICATION

Council staff are responsible for ensuring that artists engaged by City of Darwin are aware of this policy, its definitions, references and related documents.

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The General Manager Community and Regulatory Services is responsible for ensuring this policy is understood and adhered to by all Council staff.

The General Manager, Community and Regulatory Services is responsible for the strategic oversight and management of Council's arts and cultural development activities, programs, promotion and the implementation of this policy.

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